

# Notice of Allowability

Application No.

09/601,667

Examiner

Samuel W Liu

Applicant(s)

MORRIS ET AL.

Art Unit

1653

## -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 5-3-2004 and 8-14-2003.
2. ☒ The allowed claim(s) is/are 49,51,54 and 78-80.
3. ☒ The drawings filed on 03 August 2000 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☒ All b) ☐ Some\* c) ☐ None of the:
    1. ☒ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

### Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 5-20-04.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

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### **DETAILED ACTION**

This Office action is in response to applicants' amendments filed 3 May 2004, which amends claims 49, 51 and 54; and applicants' amendment filed 14 August 2003, which cancels claims 1-45, 50, 52 and 53, and amends claims 49, 51, 78 and 80. The amendments indicated above have been entered. Also, applicants' request (filed 3 May 2004) for extension of time of one month has been entered.

The pending claims 46-49, 51 and 54-90 are therefore examined in this Office action.

### **EXAMINER'S AMENDMENT**

An Examiner's Amendment to the record appears below. Should the change and/or additions be unacceptable to Applicant, an amendment may be filed as provided by 37 C.F.R. § 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than payment of the Issue Fee.

Authorization for this Examiner's Amendment was given in a telephone interview with Eric M. Brusca on May 20, 2004. Applicants agree to cancel claims 46-48, 55-77 and 81-90 without prejudice, and agree the Examiner proposed amendment to claim 79 (see below).

#### **Amendments to the claim:**

The pending claims 46-48, 55-77, 79 and 81-90 have been amended or canceled as follows. Please replace the previous claims with the claim shown below.

Delete claims 46-48, 55-77 and 81-90.

Claim 79 (*Amended*): After "cell recognition molecule" add "which couples to the polypeptide of claim 49 or claim 54".

#### **Amendments to the specification:**

The abstract is amended as follows (in one paragraph):

The present invention relates to isolated mistletoe lectin polypeptides and the pharmaceutical composition comprising the polypeptides thereof. Also, the present invention

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relates to processes for the production of mistletoe lectin polypeptides in homologous and heterologous host systems and mistletoe lectin peptides. Further, nucleic acid molecules are provided, which encode these mistletoe lectin polypeptides, and also pharmaceutical compositions comprising mistletoe lectin nucleic acids.

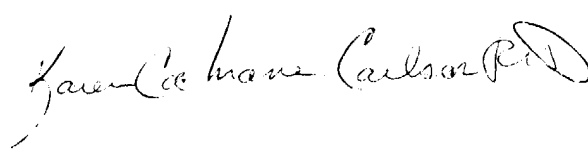
In page 19, line 17, "pharma-ceutical" is changed to "pharmaceutical".

*Conclusion:* Claims 49, 51, 54 and 78-80 are allowable over the art of record.

Any comments considered necessary by applicants must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Samuel Wei Liu, Ph.D. whose telephone number is (571) 272-0949. The Examiner can normally be reached daily except alternate Fridays from 8:30 A.M. to 5:30 P.M. If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Christopher Low, can be reached at (571) 272-0951. The official fax number for Technology Center 1600 is (703) 308-4242. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Technology Center 1600 receptionist whose telephone number is (703) 308-0196.

  
Samuel W. Liu, Ph.D.  
Art Unit 1653, Examiner  
May 7, 2004

  
KAREN COCHRANE CARLSON, Ph.D.  
PRIMARY EXAMINER

### Abstract

The present invention relates to isolated mistletoe lectin polypeptides and the pharmaceutical composition comprising the polypeptides thereof. Also, the present invention relates to processes for the production of mistletoe lectin polypeptides in homologous and heterologous host systems and mistletoe lectin peptides. Further, nucleic acid molecules are provided, which encode these mistletoe lectin polypeptides, and also pharmaceutical compositions comprising mistletoe lectin nucleic acids.